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5 Attorney for Creditor/Respondent ERICH RUSSELL
and Respondent JOANNE RUSSELL
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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION**

10 In re

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12 NORTHERN HOLDING, LLC,

13 Debtor.
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) Case No. 8:20-bk-13014-MW

) Chapter 7

) **DECLARATION OF ERICH RUSSELL IN**
) **OPPOSITION TO TRUSTEE MOTION**
) **FOR ORDER FOR TURNOVER OF 2380**
) **LIVE OAK ROAD RESIDENCE**

) Hearing Set For:

) Date: August 30, 2021

) Time: 2:00 p.m.

) Place: Courtroom 6C

) United States Bankruptcy Court
411 W. Fourth Street
Santa Ana, CA 92701

21 I, Erich Russell, hereby declare and state:

22 1. I am the former owner of the three real property parcels that are the subject of
23 this motion, and am the current tenant with my wife Joanne Russell of the residence commonly
24 known as 2380 Live Oak Road, Paso Robles, CA. I have no opposition to the motion as it relates
25 to 1172 San Marcos Road, Texas Road, and the vineyard portion of 2380 Live Oak Road. I do
26 oppose the motion as it applies to the 2380 Live Oak Road residence which my wife and I have a
27 valid written lease which allows my wife and I to remain at the 2380 Live Oak residence through
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1 Janauary1, 2022. Each of the facts set forth herein are based on my own personal knowledge and
2 if called as a witness I could competently testify thereto.

3 2. On or about October 27, 2020, I entered into an Agreement to Purchase and Sell a
4 Corporation and Real Estate with the debtor Northern Holding, LLC, A copy of the agreement is
5 attached as Exhibit 2 to the moving papers. In the agreement I agreed to sell the three parcels of
6 real property that are the subject of the motion including the residence located on and commonly
7 known as 2380 Live Oak Road, Paso Robles CA. Under the agreement: I left \$163,050 cash in
8 the account to be repaid within 90 days; I was to be reimbursed and paid an additional \$200,000
9 within 180 days; and was to be paid \$6,440,000 in 5 years. In addition, the agreement provided
10 that the buyer Northern Holding, LLC, would execute a lease for the 2380 Live Oak Road
11 residence leasing the property to my wife Joanne and I with an assigned rental value of \$12,000
12 per month. Pursuant to the agreement Northern Holding, LLC, and my wife Joanne Russell and I
13 entered into a written California Residential Lease/Rental Agreement a copy of which is attached
14 to the moving papers as Exhibit 3. The Lease agreement listed the 2380 Live Oak Road
15 residence as the property to be leased, and debtor Northern Holding, LLC, as the landlord, and
16 Erich and Joanne Russell as the tenants. The Lease agreement further provided that the \$12,000
17 monthly rental amount was to be paid from the vineyard consulting income my wife and I were
18 to be paid by the debtor Northern Holding, LLC.

19 3. On August 16, 2021, my wife and I delivered two separate CDC Eviction
20 Protection Declarations to Lee Coddling of Northern Holding, LLC (the owner of the property) ,
21 and are hereby serving them on the Trustee in this bankruptcy proceeding Richard Marshack
22 through his counsel. True and correct copies to the two separate CDC Eviction Protection
23 Declarations delivered to Lee Coddling of Northern Holding, LLC, and the Trustee in this
24 bankrupt action Richard Marshack are attached hereto as Exhibit A.

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1 I declare under penalty of perjury under the laws of the United States of America that the
2 above is true and correct. Executed this 16th day of August 2021, at San Luis Obispo County,
3 California.

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5 ERICH RUSSELL
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EXHIBIT "A"



U.S. Department of
Health and Human Services
Centers for Disease
Control and Prevention

Eviction Protection Declaration

The Centers for Disease Control and Prevention (CDC) has issued an order that may protect you from being evicted or removed from where you are living. **This means that you may be able to stay at the place where you live through October 3, 2021, if you qualify.**

How to use this form

1. See if you qualify for eviction protection under the CDC order. If you'd like help from an expert, contact the US Department of Housing and Urban Development (HUD) at (800) 569-4287 or go to <https://www.hudexchange.info/programs/housing-counseling/rental-eviction/> to get contact information for a local housing counselor.
2. Sign the declaration that you qualify, on the next page.
3. Give the signed declaration page to the individual or company you rent from (for example, building management, landlord, etc.). Keep a picture or copy for your records and call your expert back if there's a problem.

If your landlord violates the CDC order, they could be subject to criminal penalties, including fines or a term of imprisonment.

1. Do I qualify?

If you can check at least one box in each column, you qualify.

Column A

- ☒ I received a stimulus check (Economic Impact Payment) in 2020 or 2021
- ☐ I was not required to report any income to the IRS in 2020
- ☐ I am receiving **any** of the following benefits:
- Supplemental Nutrition Assistance Program (SNAP)
 - Temporary Assistance for Needy Families (TANF)
 - Supplemental Security Income (SSI)
 - Supplemental Security Disability Income (SSDI)
- ☒ In 2020 or 2021, I earned (or expect to earn) **less than** \$99,000 as an individual or **less than** \$198,000 as a joint filer

AND

Column B

I cannot pay my full rent or make a full housing payment because:

- ☐ My household income has gone down substantially
- ☐ I have been laid off from work
- ☒ My work hours or wages have been cut
- ☐ I have extraordinary out-of-pocket medical expenses¹

None of the above — You do not qualify.

None of the above — You do not qualify.

You checked at least one item in each column? Your income level qualifies.

[Check the first box on the next page]

¹Defined as 7.5% or more of my adjusted gross income for the year

2. My Declaration that I qualify

By checking the boxes below, I declare that each statement is true.

- ☒ My income level qualifies for the reasons explained above.
- ☒ I live in a U.S. county experiencing substantial or high² rates of community transmission levels of SARS-CoV-2.
- ☒ I have done my best to make timely partial payments that are as close as possible to the full payment and to get government assistance in making my rent or housing payments.³
- ☒ If I were evicted, I have no other available housing options, so I would:
 - Probably become homeless, or
 - Have to move to a homeless shelter, or
 - Have to move in with others who live in close quarters.
- ☒ I understand that after I sign:
 - Unless I come to an agreement with my landlord, I am still responsible for rent, back rent, and any fees, penalties or interest under my lease.
 - I must still follow the conditions of my lease.
 - Unless I come to an agreement with my landlord, if I fail to make my required payments, I could be evicted when this temporary halt of evictions ends.
 - I can still be evicted for reasons other than not paying rent or not making a housing payment.

I sign this declaration⁴ under penalty of perjury. That means I promise that the statements above are the truth and that I understand that I can be criminally punished for lying.

You sign here:

X



Date: 8-16-21

3. Give this signed page to the individual or company you rent from.

ATTN LANDLORDS: Thank you for your compliance. If you violate the CDC's Eviction Order, you and/or your business may be subject to criminal penalties, including fines and a term of imprisonment.

Troubleshooting tools for tenants

Find emergency rental financial assistance

Call (800) 569-4287 to find a listing for local HUD-approved housing counselors

Report problems with debt collection

Submit a complaint to CFPB cfpb.gov/complaint

Report discrimination

Submit a complaint.
Call HUD at (800) 669-9777

² See COVID-19 Integrated County View: <https://covid.cdc.gov/covid-data-tracker/#county-view/>

³ Calling a local expert is the best way to figure out all the help that is available to you. Find a listing for a local HUD-approved housing counselor by calling (800) 569-4287.

⁴ If you have already signed an eviction moratorium declaration, you do not need to submit another one.



U.S. Department of
Health and Human Services
Centers for Disease
Control and Prevention

OMB Control No. 1920-1303
Form Expiration: 2/28/2022

Eviction Protection Declaration

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AND

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You sign here:

X

Joanne Russell

Date:

8/16/21

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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
264 Clovis Avenue, Suite 208, Clovis CA 93612

A true and correct copy of the foregoing document entitled (*specify*): DECLARATION OF ERICH RUSSELL IN
OPPOSITION TO TRUSTEE MOTION FOR ORDER FOR TURNOVER OF 2380 LIVE OAK RESIDENCE

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 08/16/2021, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.
Tinho Mang, Marshack Hays, LLC, 870 Rossevelt, Irvine CA 92620

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 08/16/2021, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Honorable Mark S. Wallace
United States Bankruptcy Court Central District of California
411 West Fourth Street, Suite 6135
Sanat Ana, California 92701

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

08/16/2021 Kari L. Ley
Date Printed Name


Signature